

02/18/00 DISCUSSION DRAFT

DRAFT #21

Chapter 909---CIVIL AIR PATROL

(AS DRAFTED BY AIR FORCE PERSONNEL)

(Deleted text from the existing statute is ~~struck through~~)

(New text from the existing statute is underlined)

(Changes since Draft #18 are highlighted in **yellow**)

§ 9441. Status: support by Air Force; employment

(a) STATUS AND UTILIZATION. The Civil Air Patrol, an organization chartered by Congress as a nonprofit corporation, is ~~a~~ the volunteer civilian auxiliary of the Air Force. The Secretary of the Air Force may use the services of the Civil Air Patrol in fulfilling the non-combat programs and missions of the Department of the Air Force. The Secretary of the Air Force may, under regulations prescribed by him, regulate the activities of the Civil Air Patrol when acting as the volunteer civilian auxiliary of the Air Force. When the services of the Civil Air Patrol are used by any branch of the Federal government, the Civil Air Patrol will be employed as the volunteer civilian auxiliary of the Air Force.

(b) SUPPORT FOR THE CIVIL AIR PATROL AS THE AUXILIARY OF THE AIR FORCE. ~~To assist the Civil Air Patrol in the fulfillment of its objectives as set forth in section 2 of the Act of July 1, 1946 (36 U.S.C. 202.)~~ The Secretary of the Air Force may furnish resources as he considers to be needed by the Civil Air Patrol under regulations prescribed by him with the approval of the Secretary of Defense to enable the Civil Air Patrol, as the auxiliary of the Air Force, to fulfill its role of supporting Air Force programs and missions. The Secretary of the Air Force may—

(1) give, lend, or sell to the Civil Air Patrol without regard to the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 471 et seq.)--

- (A) major items of equipment, including, but not limited to, aircraft, motor vehicles, computers and communications equipment; and
- (B) necessary related supplies and training aids;

that are excess to the military departments; and

(2) permit the use , with or without charge, of ~~such~~ services and facilities of the Air Force ~~as he considers to be needed by the Civil Air Patrol to carry out its missions;~~

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(3) ~~furnish such quantities of fuel and lubricants or provide funds for supplies, including but not limited to, fuel and lubricants and other items required for vehicle and aircraft operations including unit capability testing missions and training missions;~~

(4) establish, maintain and supply liaison offices of the Air Force at the National, ~~Regional~~, State, ~~or and at not more than eight regional headquarters~~ Territorial headquarters of the Civil Air Patrol;

(5) detail or assign any member of the Air Force or any officer, ~~or~~ employee or contractor of the Department of the Air Force to any liaison office at the National, ~~Regional~~, State, ~~or or~~ Territorial headquarters of the Civil Air Patrol;

(6) detail any member of the Air Force or any officer, ~~or~~ employee or contractor of the Department of the Air Force to any unit or installation of the Civil Air Patrol to assist in the training programs of the Civil Air Patrol;

(7) ~~in time of war, or of national emergency declared after May 27, 1954, by Congress or the President,~~ authorize the payment of travel expenses and allowances in accordance with regulations prescribed by the Secretary of the Air Force at rates not to exceed those paid to government employees under subchapter I of chapter 57 of title 5, to members of the Civil Air Patrol while carrying out ~~any programs or missions specifically assigned by the Air Force;~~

(8) provide funds for the ~~the~~ National headquarters of the Civil Air Patrol, including, but not limited to, funds for the payment of staff compensation and benefits, administrative expenses, travel, per diem and allowances, rent, ~~and~~ utilities, ~~and~~ other operational expenses; and other key staff at Regional, State, or Territorial headquarters as deemed necessary by the Secretary of the Air Force to fulfill Air Force requirements;

(9) ~~authorize the payment of aircraft maintenance expenses relating to operational missions including unit capability testing missions and training missions;~~

(9 10) authorize the payment of expenses of placing into serviceable condition, improving, and maintaining ~~major items of~~ equipment (including aircraft, motor vehicles, computers and communications equipment) owned or leased by the Civil Air Patrol;

(10 11) reimburse the Civil Air Patrol for costs incurred for the lease or purchase of such ~~major~~ items of equipment as the Secretary considers

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needed by the Civil Air Patrol; ~~to carry out its Air Force assigned missions; and~~

(11) furnish articles of the Air Force uniform to Civil Air Patrol cadets without cost to such cadets support the Civil Air Patrol cadet program by furnishing articles of the Air Force uniform to cadets without cost and other such support that the Secretary of the Air Force determines is consistent with Air Force missions and objectives;

(12) provide support, including the use of appropriated funds, for the Civil Air Patrol aerospace education program to the extent the Secretary of the Air Force determines these activities further Air Force missions and objectives; and

(13) use Civil Air Patrol chaplains in support of the Air Force active duty and reserve component forces to the extent and under conditions deemed appropriate by the Secretary of the Air Force.

(c) SUPPORT FOR THE CIVIL AIR PATROL AS A NONPROFIT ORGANIZATION To assist the Civil Air Patrol in the fulfillment of its objectives as set forth in section 2 of the Act of July 1, 1946 (Chapter 403 of Title 36),

(1) The Civil Air Patrol may utilize assets including, but not limited to, aircraft, motor vehicles, computers, and communications equipment, provided by the Federal government or that were purchased with Federal appropriated funds, including reimbursement, to respond to requests from state or local governments for assistance in disaster response or other emergency or non-emergency missions or activities. Such use is authorized whether or not the state or local governments provide reimbursement for this assistance, or provide reimbursement at a rate less than private companies charge for equivalent services; and

(2) The Secretary of the Air Force may reimburse the Civil Air Patrol for the cost of insurance for civil liability protection associated with programs and missions not conducted as an instrumentality of the United States as provided for in subsection (e).

(d) FEDERAL FUNDS APPROPRIATED FOR THE CIVIL AIR PATROL. Federal funds appropriated for Civil Air Patrol shall be available for the exclusive use of the Civil Air Patrol.

(e) CIVIL LIABILITY. The Secretary may use the services of the Civil Air Patrol in fulfilling the noncombat missions of the Department of the Air Force and for purposes of determining the civil liability of the Civil Air Patrol (or any member thereof) with respect to any act or omission committed by the Civil Air Patrol (or any member thereof)

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in carrying out a mission assigned by the Secretary of the Air Force, the Civil Air Patrol shall be deemed to be an instrumentality of the United States.

(f ~~d~~) USE OF RETIRED AIR FORCE PERSONNEL. (1) The Secretary of the Air Force ~~may authorize the Civil Air Patrol to employ,~~ may retain through the use of personal services contracts, as administrators and liaison officers, persons retired from service in the Air Force whose qualifications are approved under regulations prescribed by the Secretary and who request such employment.

(2) A person ~~employed~~ whose services are retained pursuant to paragraph (1) may receive the person's retired pay and an additional amount for such employment that is not more than the difference between the person's retired pay and the pay and allowances the person would be entitled to receive if ordered to active duty in the grade in which the person retired from service in the Air Force. ~~The additional amount shall be paid to the Civil Air Patrol by the Secretary from funds appropriated for that purpose.~~

(3) A person ~~employed~~ whose services are retained pursuant to paragraph (1) may not, while so employed, be considered to be on active duty or inactive-duty training for any purpose. Such persons may however accept services on behalf of the Air Force and commit government funds as required to perform their liaison officer functions.

(g) BOARD OF GOVERNORS. (1) The governing body of the Civil Air Patrol shall be a Board of Governors composed of:

(A) four members appointed by the Secretary of the Air Force who may be active or retired officers of the Air Force (including the Air Force Reserve and Air National Guard), Federal civilian employees, or private citizens;

(B) four members of the Civil Air Patrol as determined by the Civil Air Patrol; and

(C) three members from federal agencies, public corporations, non-profit associations or other organizations having an interest and expertise in civil aviation and the Civil Air Patrol mission who are appointed jointly by the Secretary of the Air Force and the Civil Air Patrol National Commander.

(2) The Chairperson of the Board of Governors shall be chosen by the members of the Board of Governors and shall alternate, every two years, between the members of the Board appointed by the Secretary of the Air Force and the members of the Board representing the Civil Air Patrol.

(3) The power granted to the Civil Air Patrol in section 40304 of title 36, including the power to adopt a constitution, by laws and regulations are subject to the requirements and authority of the Board of Governors established in this subsection.

(4) (A) The corporation shall eliminate or limit the personal liability of a director to the corporation or to its members for monetary damages or breach of fiduciary duty as a director; except that any such provision shall not eliminate or limit the liability of a director to the corporation or to its members for monetary damages for any breach of the director's duty of loyalty to the corporation or to its members, acts or omissions not in good faith or that involve intentional misconduct or a knowing violation of law , or any transaction from which the director directly or indirectly derived an improper personal benefit.

(B) No director or officer shall be personally liable for any injury to person or property arising out of a tort committed by an employee unless such director or officer was personally involved in the situation giving rise to the litigation or unless such director or officer committed a criminal offense in connection with such situation. The protection afforded in this clause shall not restrict other common law protections and rights that a director or officer may have. This clause shall not restrict the corporation's right to eliminate or limit the personal liability of a director to the corporation or to its members for monetary damages for breach of fiduciary duty as a director as provided in clause (A) of this paragraph.